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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,316	11/16/2000	Thomas R. Justen	US-1483	6478

27062      7590      05/21/2003

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EXAMINER

VASUDEVA, AJAY

ART UNIT      PAPER NUMBER

3617

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/714,316

Applicant(s)

JUSTEN ET AL.

Examiner

Ajay Vasudeva

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-12, 14-28 and 31-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 9-12 and 14-28 is/are allowed.
- 6) ☐ Claim(s) 1-8 and 31-34 is/are rejected.
- 7) ☐ Claim(s) 35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-8, and 31-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan (04-262013).

Japan (04-262013) shows an air intake silencer for an internal combustion engine, generally as claimed, having an inlet pipe [3] with an inlet passage, and a tuning tube [4] with a tuning passage in fluid communication with the inlet passage. The inlet pipe and the tuning tube are integrally formed (page 7 of the Japanese translation), and the length of tuning tube is greater than the inlet tube (page 6 of the Japanese translation). In one embodiment, the tuning tube is disposed in a wrap-around relationship with another tuning tube (page 7 of the Japanese translation).

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3. Claims 1-5 and 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim.

Kim shows an air intake silencer for an internal combustion engine, generally as claimed, having at least one an inlet pipe [9, 3, 2] with an inlet passage, and a tuning tube [1a, 4, 2a] with a tuning passage in fluid communication with the inlet passage. At least parts of the inlet pipe and the tuning tube have a substantially same diameter, and the length of tuning tube is greater than the inlet tube.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-4, 6-8, and 31-34 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

5. Claims 9-12 and 14-28 are allowed.

6. Claim 35 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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***Conclusion***

7. In view of newly discovered art, this Office Action contains a non-final rejection on new grounds. This Office Action is a non-final rejection. The examiner regrets any inconvenience caused as a result.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. .


Katayama (2002/0117138), Japan (04-262014), Japan (04-262015), Japan (04-262017), Japan (215), Japan (970), Japan (039), and UK (852) show silencing devices.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (703) 306-5992.

AS

AV

May 18, 2003

  
S. JOSEPH MORANO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600